

MONTANA LEGISLATIVE HISTORY

Chapter 694 19 91

Bill H 920 S _____

Original bill & history ☒ c

H. Committee on Taxation

Hearing Date(s) Mar 20 ☒ c

Mar 22 ☒ c

_____ ☐ c

_____ ☐ c

Date Out Mar 22 ☒ c

S. Committee on Taxation

Hearing Date(s) Apr 08 ☒ c

Apr 11 ☒ c

_____ ☐ c

_____ ☐ c

Date Out April ☒ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 970

SUSTAINING PROCEDURES

2/21	INTRODUCED		
2/21	REFERRED TO JUDICIARY		
2/22	FIRST READING		
2/22	FISCAL NOTE REQUESTED		
2/23	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	FISCAL NOTE RECEIVED		
2/25	FISCAL NOTE REQUESTED		
2/25	REFERRED TO APPROPRIATIONS		
2/26	FISCAL NOTE PRINTED		
3/19	HEARING		
3/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/28	2ND READING PASSED AS AMENDED	79	15
3/28	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		
3/28	3RD READING PASSED	77	21
TRANSMITTED TO SENATE			
3/28	FIRST READING		
3/28	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
4/08	HEARING		
4/09	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	31	13
4/12	3RD READING CONCURRED	32	17
RETURNED TO HOUSE			
4/18	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 581		
		EFFECTIVE DATE: 4/23/91	

HB 969 INTRODUCED BY STICKNEY, ET AL.
 APPROPRIATIONS TO SUPPORT AND EXPAND
 PUBLIC TELEVISION IN MONTANA

2/22 INTRODUCED
 2/22 REFERRED TO APPROPRIATIONS
 2/22 FIRST READING
 3/05 HEARING
 DIED IN COMMITTEE

HB 970 INTRODUCED BY COCCHIARELLA, ET AL.
 GENERALLY REVISE TAX TREATMENT OF
 NEW AND EXPANDING INDUSTRIES

2/22	INTRODUCED		
2/22	REFERRED TO TAXATION		
2/22	FIRST READING		
2/22	FISCAL NOTE REQUESTED		
3/05	FISCAL NOTE RECEIVED		
3/05	FISCAL NOTE PRINTED		
3/20	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/03	2ND READING PASSED AS AMENDED	90	6
4/03	ON MOTION RULES SUSPENDED TO ALLOW 3RD READING THIS DAY		
4/03	3RD READING PASSED	93	7
TRANSMITTED TO SENATE			
4/04	FIRST READING		
4/04	REFERRED TO TAXATION		
4/08	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		

4/15	2ND READING CONCURRED	48	0
4/16	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	96	3
4/19	3RD READING AMENDMENTS CONCURRED	95	3
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 694		
	EFFECTIVE DATE: 4/27/91		

HB 971 INTRODUCED BY COHEN

MONTANA FOREST RESOURCES MANAGEMENT ACT

2/23	INTRODUCED
2/23	REFERRED TO TAXATION
2/23	FIRST READING
2/23	FISCAL NOTE REQUESTED
3/05	REREFERRED TO NATURAL RESOURCES
3/08	FISCAL NOTE RECEIVED
3/21	HEARING
3/27	TABLED IN COMMITTEE

HB 972 INTRODUCED BY SIMPKINS, ET AL.

PROPERTY TAX RELIEF FOR PURCHASE
OF PRINTING EQUIPMENT

2/23	INTRODUCED
2/23	REFERRED TO TAXATION
2/23	FIRST READING
2/25	FISCAL NOTE REQUESTED
3/05	FISCAL NOTE PRINTED
3/05	FISCAL NOTE RECEIVED
3/22	HEARING
3/27	TABLED IN COMMITTEE

HB 973 INTRODUCED BY STANG, ET AL.

CREATE A SMALL PETROLEUM TANK RELEASE
CLEANUP FUND AND SPECIAL FUELS FEE

2/26	INTRODUCED		
2/26	REFERRED TO NATURAL RESOURCES		
2/26	FIRST READING		
2/26	FISCAL NOTE REQUESTED		
3/05	REREFERRED TO TAXATION		
3/08	FISCAL NOTE RECEIVED		
3/11	FISCAL NOTE PRINTED		
3/14	HEARING		
3/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/01	2ND READING PASSED	69	31
4/03	3RD READING PASSED	74	26
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO NATURAL RESOURCES		
4/05	REREFERRED TO TAXATION		
4/10	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/16	2ND READING CONCURRED AS AMENDED	39	10
4/17	3RD READING CONCURRED	37	12
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS NOT CONCURRED	99	0
4/19	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		

HOUSE BILL NO. 970

INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

IN THE HOUSE

FEBRUARY 22, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 23, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991

PRINTING REPORT.

APRIL 3, 1991

SECOND READING, DO PASS AS AMENDED.

ON MOTION, RULES SUSPENDED. BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 93; NOES, 7.

APRIL 4, 1991

ENGROSSING REPORT.

IN THE SENATE

APRIL 4, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 12, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 15, 1991

SECOND READING, CONCURRED IN.

APRIL 16, 1991

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991

RECEIVED FROM SENATE.

APRIL 19, 1991

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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HOUSE BILL NO. 970

INTRODUCED BY

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A BILL FOR AN ACT, ENTITLED: AN ACT TO GENERALLY REVISE THE TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE PROPERTY TO INCLUDE TRANSPORTATION, WAREHOUSING, DISTRIBUTION, AND COMMUNICATION SERVICES; REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR CLASS FIVE PROPERTY; REVISING THE DEFINITION OF A NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN PROPERTY TAX BENEFITS; REQUIRING THAT A QUALIFYING INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE THE JURISDICTION IN WHICH IT IS LOCATED; APPLYING THE PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE QUALIFYING PROPERTY; REVISING THE DEFINITION OF A NEW CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY CREDIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401, 15-24-1402, AND 15-31-124, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural

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electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in subsection (1)(b) of 15-6-137;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and

environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, and that earns 50% or more of its gross operating income from out-of-state sales. ~~as~~ New industry is distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes ~~only those~~ industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the ~~1972~~ 1987 Standard Industrial Classification Manual prepared by the United States office of management and budget; or

(iv) provide transportation, warehousing, distribution, or communications services.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(6) Class five property is taxed at 3% of its market value."

Section 2. Section 15-24-1401, MCA, is amended to read:

"15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, at least \$250,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which

the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" means a firm that receives 50% or more of its gross operating income from sales outside the jurisdiction approving the tax benefits described in 15-24-1402. Industry includes but is not limited to a firm that engages in the:

(a) mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget;

(b) extraction or harvesting of minerals, ore, or forestry products; or

(c) processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products; or

(d) provision of transportation, warehousing, distribution, or communications services.

(3) "New" means that the industry is new to the jurisdiction approving the resolution provided for in 15-24-1402(3)(2) and has invested after July 1, 1987, at least \$500,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402

are to be received or in the preceding tax year. New industry does not include property treated as new industrial property under 15-6-135.

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1401 and 15-24-1402."

Section 3. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment.

(1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the

1 applicant's taxes have been paid in full. Taxes paid under
2 protest do not preclude approval.

3 (b) The governing body may end the tax benefits by
4 majority vote at any time, but the tax benefits may not be
5 denied an industrial facility that previously qualified for
6 the benefits.

7 (c) The resolution provided for in subsection (2)(a)
8 shall include a definition of the improvements or modernized
9 processes that qualify for the tax treatment that is to be
10 allowed in the taxing jurisdiction. The resolution may
11 provide that real property other than land, personal
12 property, improvements, or any combination thereof is
13 eligible for the tax benefits described in subsection (1).

14 (3) The taxpayer must apply to the county assessor on a
15 form provided by the department of revenue for the tax
16 treatment allowed under subsection (1). The application by
17 the taxpayer must first be approved by the governing body of
18 the appropriate local taxing jurisdiction, and the governing
19 body must indicate in its approval that the property of the
20 applicant qualifies for the tax treatment provided for in
21 this section. Upon receipt of the form with the approval of
22 the governing body of the affected taxing jurisdiction, the
23 assessor shall make the assessment change pursuant to this
24 section.

25 (4) The tax benefit described in subsection (1) applies

1 only to the--number--of all mills levied and assessed,
2 including for--local--high--school--district-and-elementary
3 school-district-purposes-and-to-the-number-of--mills--levied
4 and--assessed--by--the--governing-body-approving-the-benefit
5 over-which-the-governing-body-has--sole--discretion--in--no
6 case--may--the--benefit-described-in-subsection-(1)-apply-to
7 levies or assessments required under Title 15, chapter 10,
8 20-9-331, 20-9-333, or otherwise required under state law in
9 the taxing units in which the qualifying property is
10 located."

11 **Section 4.** Section 15-31-124, MCA, is amended to read:

12 "15-31-124. New or expanded industry credit --
13 definitions. As used in 15-31-124 through 15-31-127, the
14 following definitions apply:

15 (1) "Department" means the department of revenue.

16 (2) "Expanding" means to expand or diversify a present
17 operation to increase total full-time jobs by 30% or more.

18 (3) "Manufacturing" means the process of mechanical or
19 chemical transformation of materials or substances into new
20 products, as described in the standard industrial
21 classification manual of 1972 by the office of management
22 and budget of the United States.

23 (4) (a) "New corporation" means a corporation engaging
24 in manufacturing for the first time in this state, and
25 manufacturing--a--product--not--currently--manufactured--or

1 ~~substantially-similar-to-a-product-currently-manufactured-by~~
2 ~~that-corporation-or-any-affiliate-corporation-in-this-state;~~

3 A new corporation includes:

4 (i) a manufacturing corporation existing outside of
5 Montana that enters into manufacturing in the state;

6 (ii) a nonmanufacturing corporation within the state
7 that enters into manufacturing in the state; or

8 (iii) a corporation newly formed in Montana and entering
9 into manufacturing operations in the state.

10 (b) ~~it~~ A new corporation does not include:

11 (i) ~~reorganizing--an~~ a corporation reorganized from a
12 previously existing corporation that has been engaged in
13 manufacturing in this state; or

14 (ii) ~~the--creation-of~~ a corporation created as a parent,
15 subsidiary, or affiliate of an existing corporation that has
16 been engaged in manufacturing in this state of which 50% 20%
17 or more of the ownership is ~~owned-or-controlled~~ held by the
18 ~~same--person--corporation--or-association~~ corporation or by
19 the stockholders of the corporation."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0970, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the tax treatment of new and expanding industry; revising the definition of a new industry that qualifies as class five property to include transportation, warehousing, distribution, and communication services; requiring that a new industry receive 50 percent or more of its income from out-of state sales in order to qualify for class five property; revising the definition of a new or expanding industry that qualifies for certain property tax benefits; requiring that a qualifying industry receive 50 percent or more of its income from sales outside the jurisdiction in which it is located; applying the property tax benefit to all mills levied against the qualifying property; revising the definition of a new corporation qualifying for the new or expanded industry credit.

FISCAL IMPACT:

Under the proposal, class 5 new industry property is expanded to include industries that provide transportation, warehousing, distribution, or communications services. To the extent that this additional language results in property currently being taxed being provided class 5 status, local and state revenue could decline. This impact is expected to be small. It also further restricts new industry to those industries which receive 50% or more of gross operating income from out-of-state sales.

Under the proposal, the benefit is extended to all mills levied and assessed against the property rather than just local property. Also new and expanding industry is expanded to include industries that provide transportation, warehousing, distribution, or communications services. To the extent that this additional language results in property currently being fully taxed at the state and school level being provided with reduced rates, state and school revenues could decline. To the extent that the expansion of the definition of new and expanding industry results in property currently being fully taxed being provided with reduced rates; local, state, and school revenues could decline. The impact of these is expected to be small. In addition, the proposal restricts new and expanding industry to those industries with 50% or more of gross operating income from outside the jurisdiction approving the tax benefits.

This proposal would significantly expand the number of companies that could potentially qualify for the new or expanded corporate tax benefit, impacting revenue to the state. Since the department does not have the number of potential qualifiers nor the dollar value of the claims, it is not possible to quantify this impact.



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

3-5-91



VICKI COCCHIARELLA, PRIMARY SPONSOR

DATE

4/5/91

Fiscal Note for HB0970, as introduced

HB 970

TECHNICAL NOTES:

Language in section 1, 4b(iv), allowing warehousing industries to be considered new industry, may conflict with language in section 1 (5a), which excludes retail or wholesale merchants from new industry.

Language in section 1 (4a), restricting new industry to those industries with 50% or more of gross operating income from sales out-of-state and in section 2 (2), restricting new and expanding industry to those industries with 50% or more of gross operating income from sales outside the jurisdiction approving the tax benefits, may restrict industries currently receiving tax benefits under these sections.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 20, 1991, at 9:05 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 983

Presentation and Opening Statement by Sponsor:

REP. BARDANOUVE, House District 16, Harlem, stated HB 983 is an attempt to fund our state park systems. Montana has some of the finest recreational sites you can name. We have been unable to maintain our park system because we have gotten into a budget crunch on general fund money. The last general fund money was lost in 1987. With the increased use of the parks, they have been deteriorating rapidly. The Governor has put some general fund money into the budget; however, he fears that we are headed

would like to see the word acquisition stricken from the title. REP. NELSON said that it distresses him that the tax would be on Montana made products. He asked REP. BARDANOUVE if he would object to an amendment to expand it to include out of state products. REP. BARDANOUVE said no and that they had to be very careful with interstate commerce law.

Closing by Sponsor:

REP. BARDANOUVE said we have some of the finest parks in America. HB 983 is not going to drive the farmers and ranchers from Montana; and at no time, did he say that soft drinks were a non-essential. Children can't go into a restaurant and order a hamburger without ordering a soft drink. Recreation must be paid for, and HB 983 is a tool that could be used to do that.

HEARING ON HB 970

Presentation and Opening Statement by Sponsor:

REP. COCCHIARELLA, House District 59, Missoula, provided a copy of the original bill introduced and a copy of the amendments which are very important to HB 970. EXHIBIT 5

HB 970 came from the professional economic development people in the state. Currently under our tax incentives for economic development, we only allow an incentive for manufacturing. The bill expands the application of the incentive. She stated REP. O'KEEFE would explain the bill.

REP. O'KEEFE said HB 970 is the bill he had drafted and REP. COCCHIARELLA was good enough to carry it. The original concept came from the fact that we have tax incentives for new industry that deals with milling, mining, and manufacturing. They are good industries but they are extractive industries. If the state is to grow beyond extractive industries, we also needed some way to attract industries that were outside of that ball park. We took the existing statute and we've changed it slightly so the incentives would also apply to transportation, warehousing, distribution, and everything else except for (with the amendments) communication. There were problems with the definition of communication services. The committee will essentially be working with a greybill.

He brought the committee's attention to Subsection 4. He talked with the City Manager from Helena, and they did something inadvertently that they haven't fixed yet. They gave the ability to cities and or counties to control the mill levies of the city and or county. It could affect both and they didn't want to do that. This section is a throw-away in the subcommittee so that we can leave the control of the mill levy in the hands of the governing body for both the city and county.

He is not convinced that tax incentives are the way to go about creating new businesses. We are in a situation where if we don't do this, the playing field will not be level because the surrounding states are doing it.

Proponents' Testimony:

Ron Klophake, Missoula Economic Development Corporation, stated Section 1 (as amended) deals with classifications of class 5 property. New industry would be in class 5 and it goes on to define that new industry in a very tight manner. We were trying to recognize that there are many new industries other than manufacturing industries. We have added in terms of transportation, warehousing, communication, and other industries, that 50% or more of its gross proceeds must come from outside of the state. He asked that the committee reinsert "only those" on Page 3, Line 18.

Section 2 deals with the local option portion. Currently, local units of government can, after the reviewing of what is going on in their communities, determines whether or not the new industry have its new tax portion at the 50% level over five years.

Section 3 deals with the tax benefit application. He asked the committee to strike Subparagraph 4 under Section 3. This is the throw-away portion which REP. O'KEEFE talked about. It will not adversely affect the bill.

Section 4 deals with an area that has created some confusion. This involves the interpretation of what is new in the state and what the corporate tax credits are. Previous language dealt with products that are manufactured or substantially similar. When we talked with DOC, they were having problems as to what that meant. Section 4 tries to clean that up and specifically defines what we mean by new corporations in the state.

The purpose of HB 907 is to broaden our perspective on what we want in Montana. It is not just value-added manufacturing. Even high technology industries that make software would qualify. We can grow in this state.

Kay Foster, Billings Chamber of Commerce, stated that incentives are good for the expansion of current industry. They do work.

Evan Barrett, Butte Local Development Corporation, stated that all of his entities across the state have agreed that we need to bring Montana's growth and incentives into the modern era. Transportation and warehousing is where the growth is today. It is important that we proceed to provided incentives to these sectors to have a well rounded policy of economic development incentives. HB 970 will do this.

Opponents' Testimony:

Denis Adams, DOR, stated that unless HB 907 receives a number of amendments, it will not achieve those goals and objectives. One of their concerns is by putting the limitation on having to have all 50% or more of the sales to out-of-state. Businesses who come to manufacture products to sell to Montana residents. They would not qualify for this incentive.

With the expansion into transportation, distribution, and warehousing sectors, it creates systems problems. He gave an example: If there is a trucking company in Missoula that does 50% or more of its business with out-of-state businesses; then it would be possible for any other transportation company to qualify for a new industry credit. If the trucking company happens to be a household goods moving company and has a warehouse, there would be no warehousing company that would qualify for the credit. If you have a distributor who goes into Idaho and sells 50% or more of their business, then no distributor would qualify. The reason for this is on Page 5 where it talks about new industry. It says new industry has to be new to the area not a new firm. If there is one firm in that industry in the area already, it is impossible for a second firm to qualify for a new industry credit.

We tried to change the administrative rules. His lawyers reviewed the administrative rules and said it was a Legislative intent, that if there is one firm already in that industry; a second firm does not qualify for the new industry credit. This needs to be dealt with. We support a credit but we do not like to see it anymore restrictive than it already is. HB 970 would restrict it further.

Questions From Committee Members:

REP. O'KEEFE said we struck the language on Page 8, Lines 24,25, and Page 9, Lines 1,2; and he has received for the DOR the briefing paper on the exact problem that **Denis Adams, DOR**, spoke about. He asked **Judy Rippingale, DOR**, if striking that language would allow her and the Director to change their rules. **Ms. Rippingale** said the DOR attorney has been over it. She stated that they do need to look very carefully not to have that provision in there.

REP. COHEN said several years ago he read a book called The Wealth of Nations by Jane Shapiro. She traced the economic development in communities around the world, and said that economic development comes from industries that first meet a need in the local market, then produce a surplus, then begin to market their surplus outside their own community. He asked **Evan Barrett** if he required that your new industry get this tax break and start out with 50% of their sales being out of state, aren't you almost negating what seems to be the way in which new industries

grow. Mr. Barrett said that only applies to manufacturing. The first three categories, with the current statute, don't have the 50% apply. That only applies to the ones that have been added. It is not an exclusive thing. There is the possibility for that type of growth to occur in that when it grows its incremental; therefore, the expenditures that are entailed when you bring in a larger entity aren't there.

REP. COHEN said that in his statistics, Ron Klophake talked about 455 new jobs in an area which we are not offering a tax credit over a 10 year period and only 89 new jobs in an area which we are offering a tax credit. He asked Mr. Klophake if that testimony would be easily interpreted to mean that the tax credits are unnecessary and don't really don't do anything to produce new jobs. Mr. Klophake said he may interpret it that way, but he was pointing out that was the growth industry. We still have a long way to go and we need to be attracting more of that. We are not getting the manufacturing, but we are getting the people to set up shop to develop computer software programs. This is the growth area.

REP. O'KEEFE asked Mr. Klophake what the difference was between manufacturing and non-manufacturing. Mr. Klophake said one of the problems suggested by Denis Adams was that by passing HB 970, you would be restricting only those manufacturers who have 50% out-of-state business. That 50% caveat was only in those services areas so that you didn't get McDonalds, restaurants, and motels that deal exclusively with the local sales. But the manufacturers, even if they come in and manufacture for import substitution in the state; they do not have the 50% caveat. The caveat was also put on transportation, warehousing, and distribution.

Closing by Sponsor:

REP. COCCHIARELLA stated that it is important to realize that the world we are in is a world of high tech service industries. Montana should become a leader in that area.

HEARING ON HB 929

Presentation and Opening Statement by Sponsor:

REP. WHALEN, House District 93, Billings, stated this committee has dealt in the past with the taxes on motor boats. HB 929 attempts to put progressivity into the taxation of motor boats. The bill takes away the fee, in lieu of tax to motor boats with motors of 100 horse power or more, and classifies those boats as Class A personal property. They would be taxed accordingly under the bill.

He said that we tax automobiles based upon their value. Automobiles are necessities. Boats are not a necessity and are used for recreational purposes. With that in mind, the people

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/20/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	.		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	.		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	.		
REP. DAVE WANZENRIED	✓		

EXHIBIT 5
DATE 3-20-91
HB 970

5th Legislature

LC 1847/01

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INTRODUCED BY
HOUSE BILL NO. 970
A BILL FOR AN ACT, ENTITLED: AN ACT TO GENERALLY REVISE THE TAX TREATMENT OF NEW AND EXPANDING INDUSTRY, REVISING THE DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE PROPERTY TO INCLUDE TRANSPORTATION, WAREHOUSING, DISTRIBUTION, AND COMMUNICATION SERVICES; REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR CLASS FIVE PROPERTY; REVISING THE DEFINITION OF A NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN PROPERTY TAX BENEFITS; REQUIRING THAT A QUALIFYING INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE THE JURISDICTION IN WHICH IT IS LOCATED; APPLYING THE PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE QUALIFYING PROPERTY; REVISING THE DEFINITION OF A NEW CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY CREDIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401, 15-24-1402, AND 15-31-124, MCA."

MONTANA LEGISLATIVE COUNCIL

25 (a) all property used and owned by cooperative rural
24 taxable percentage. (1) Class five property includes:
23 "15-6-135. Class five property -- description --
22 Section 1. Section 15-6-135, MCA, is amended to read:
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 15-24-1401, 15-24-1402, AND 15-31-124, MCA."
18 OR EXPANDED INDUSTRY CREDIT; AND AMENDING SECTIONS 15-6-135,
17 THE DEFINITION OF A NEW CORPORATION QUALIFYING FOR THE NEW
16 ALL MILLS LEVIED AGAINST THE QUALIFYING PROPERTY; REVISING
15 WHICH IT IS LOCATED; APPLYING THE PROPERTY TAX BENEFIT TO
14 MORE OF ITS INCOME FROM SALES OUTSIDE THE JURISDICTION IN
13 REQUIRING THAT A QUALIFYING INDUSTRY RECEIVE 50 PERCENT OR
12 INDUSTRY THAT QUALIFIES FOR CERTAIN PROPERTY TAX BENEFITS;
11 PROPERTY; REVISING THE DEFINITION OF A NEW OR EXPANDING
10 OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR CLASS FIVE
9 NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM

8 DISTRIBUTION, AND COMMUNICATION SERVICES; REQUIRING THAT A
7 PROPERTY TO INCLUDE TRANSPORTATION, WAREHOUSING,
6 DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE

5 TAX TREATMENT OF NEW AND EXPANDING INDUSTRY, REVISING THE
4 A BILL FOR AN ACT, ENTITLED: AN ACT TO GENERALLY REVISE THE

3 by cooperative organizations described in subsection (1)(b)
2 organized under the laws of Montana, except property owned
1 electrical and cooperative rural telephone association;

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1 environmental sciences and may not be appealed to either a
2 county tax appeal board or the state tax appeal board.
3 However, the appraised value of the equipment as determined
4 by the department of revenue may be appealed to the county
5 tax appeal board and the state tax appeal board.
6 (j) "New industrial property" means any new industrial
7 plant, including land, buildings, machinery, and fixtures,
8 used by new industries during the first 3 years of their
9 operation. The property may not have been assessed within
10 the state of Montana prior to July 1, 1961.
11 (1) (a) "New industry" means any person, corporation,
12 firm, partnership, association, or other group that
13 establishes a new plant in Montana for the operation of a
14 ~~new industrial endeavor and that earns 50% or more of its~~
15 ~~gross operating income from out of state sales.~~ as New
16 ~~industry is distinguished from a mere expansion,~~
17 reorganization, or merger of an existing industry.
18 (b) New industry includes only those industries that:
19 (i) manufacture, mill, mine, produce, process, or
20 fabricate materials;
21 (ii) do similar work, employing capital and labor, in
22 which materials unserviceable in their natural state are
23 extracted, processed, or made fit for use or are
24 substantially altered or treated so as to create commercial
25 products or materials; or

#3
#4

1 (iii) engage in the mechanical or chemical
2 transformation of materials or substances into new products
3 in the manner defined as manufacturing in the 1972 196
4 Standard Industrial Classification Manual prepared by the
5 United States office of management and budget;
6 ~~(iv) provide transportation, warehousing, distribution~~
7 ~~or communications services.~~
8 ~~(a) property used by retail or wholesale merchants~~
9 ~~commercial services of any type, agriculture, trades, or~~
10 ~~professions; insert language~~
11 (b) a plant that will create adverse impact on existing
12 state, county, or municipal services; or
13 (c) property used or employed in any industrial plant
14 that has been in operation in this state for 3 years or
15 longer.
16 (6) Class five property is taxed at 3% of its market
17 value."
18 Section 2. Section 15-24-1401, MCA, is amended to read:
19 "15-24-1401. Definitions. The following definitions
20 apply to 15-24-1402 unless the context requires otherwise:
21 (1) "Expansion" means that the industry has added after
22 improvements or modernized processes to its property with
23 the same jurisdiction either in the first tax year in which

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insert language

insert language

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1 the benefits provided for in 15-24-1402 are to be received
2 or in the preceding tax year.

3 (2) "Industry" ~~means a firm that receives 50% or more~~
4 ~~of its gross operating income from sales outside the~~
5 ~~jurisdiction approving the tax benefits described in~~
6 ~~15-24-1402. Industry~~ includes but is not limited to a firm
7 that engages in the:

8 (a) mechanical or chemical transformation of materials
9 or substances into products in the manner defined as
10 manufacturing in the 1972 Standard Industrial Classification
11 Manual prepared by the United States office of management
12 and budget;

13 (b) extraction or harvesting of minerals, ore, or
14 forestry products; or

15 (c) processing of Montana raw materials such as
16 minerals, ore, agricultural products, and forestry products;

17 ~~or~~
18 (d) ~~provision of transportation, warehousing,~~

19 ~~distribution, or communications services.~~ insert language

20 (3) "New" means that the industry is new to the
21 jurisdiction approving the resolution provided for in
22 15-24-1402(3)(2) and has invested after July 1, 1987, at
23 least \$500,000 worth of qualifying improvements or
24 modernized processes in the jurisdiction either in the first
25 tax year in which the benefits provided for in 15-24-1402

1 are to be received or in the preceding tax year. New
2 industry does not include property treated as new industrial
3 property under 15-6-135.

4 (4) "Qualifying" means meeting all the terms,
5 conditions, and requirements for a reduction in taxable
6 value under 15-24-1401 and 15-24-1402."

7 **Section 3.** Section 15-24-1402, MCA, is amended to read:

8 "15-24-1402. New or expanding industry -- assessment.

9 (1) In the first 5 years after a construction permit is
10 issued, qualifying improvements or modernized processes that
11 represent new industry or expansion of an existing industry,
12 as designated in the approving resolution, shall be taxed at
13 50% of their taxable value. Each year thereafter, the
14 percentage shall be increased by equal percentages until the
15 full taxable value is attained in the 10th year. In
16 subsequent years, the property shall be taxed at 100% of its
17 taxable value.

18 (2) (a) In order for a taxpayer to receive the tax
19 benefits described in subsection (1), the governing body of
20 the affected county or the incorporated city or town must
21 have approved by separate resolution for each project,
22 following due notice as defined in 76-15-103 and a public
23 hearing, the use of the schedule provided for in subsection
24 (1) for its respective jurisdiction. The governing body may
25 not grant approval for the project until all of the

1 applicant's taxes have been paid in full. Taxes paid under
2 protest do not preclude approval.

3 (b) The governing body may end the tax benefits by
4 majority vote at any time, but the tax benefits may not be
5 denied an industrial facility that previously qualified for
6 the benefits.

7 (c) The resolution provided for in subsection (2)(a)
8 shall include a definition of the improvements or modernized
9 processes that qualify for the tax treatment that is to be
10 allowed in the taxing jurisdiction. The resolution may
11 provide that real property other than land, personal
12 property, improvements, or any combination thereof is
13 eligible for the tax benefits described in subsection (1).

14 (3) The taxpayer must apply to the county assessor on a
15 form provided by the department of revenue for the tax
16 treatment allowed under subsection (1). The application by
17 the taxpayer must first be approved by the governing body of
18 the appropriate local taxing jurisdiction, and the governing
19 body must indicate in its approval that the property of the
20 applicant qualifies for the tax treatment provided for in
21 this section. Upon receipt of the form with the approval of
22 the governing body of the affected taxing jurisdiction, the
23 assessor shall make the assessment change pursuant to this
24 section.

25 (4) The tax benefit described in subsection (1) applies

1 only to the--number--of all mills levied and assessed,
2 including for--local--high--school--district-and-elementary
3 school-district-purposes-and-to-the-number-of--mills--levied
4 and--assessed--by--the--governing-body-approving-the-benefit
5 over-which-the-governing-body-has--sole--discretion--in--no
6 case--may--the--benefit-described-in-subsection-(1)--apply-to
7 levies or assessments required under Title 15, chapter 10,
8 20-9-331, 20-9-333, or otherwise required under state law in
9 the taxing units in which the qualifying property is
10 located."

11 **Section 4.** Section 15-31-124, MCA, is amended to read:

12 "15-31-124. New or expanded industry credit --
13 definitions. As used in 15-31-124 through 15-31-127, the
14 following definitions apply:

15 (1) "Department" means the department of revenue.

16 (2) "Expanding" means to expand or diversify a present
17 operation to increase total full-time jobs by 30% or more.

18 (3) "Manufacturing" means the process of mechanical or
19 chemical transformation of materials or substances into new
20 products, as described in the standard industrial
21 classification manual of 1972 by the office of management
22 and budget of the United States.

23 (4) (a) "New corporation" means a corporation engaging
24 in manufacturing for the first time in this state, and
25 manufacturing--a--product--not--currently--manufactured--or

Ex. 5

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1 substantially-similar-to-a-product-currently-manufactured-by
2 that-corporation-or-any-affiliate-corporation-in-this-state;
3 A new corporation includes:
4 (i) a manufacturing corporation existing outside of
5 Montana that enters into manufacturing in the state;
6 (ii) a nonmanufacturing corporation within the state
7 that enters into manufacturing in the state; or
8 (iii) a corporation newly formed in Montana and entering
9 into manufacturing operations in the state.
10 (b) it A new corporation does not include:
11 (i) reorganizing--an a corporation reorganized from a
12 previously existing corporation that has been engaged in
13 manufacturing in this state; or
14 (ii) the--creation-of a corporation created as a parent,
15 subsidiary, or affiliate of an existing corporation that has
16 been engaged in manufacturing in this state of which 50% 20%
17 or more of the ownership is owned-or-controlled held by the
18 same--person--corporation--or-association corporation or by
19 the stockholders of the corporation."

-End-

EX. 5

3-20-91

HB 970

Amendments to House Bill No. 970

1. Title, lines 7 through 11.

Following: "INCLUDE"

Strike: "TRANSPORTATION, WAREHOUSING, DISTRIBUTION, AND COMMUNICATION SERVICES; REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR CLASS FIVE PROPERTY"

Insert: "COMPANIES THAT ENGAGE IN THE TRANSPORTATION, WAREHOUSING OR DISTRIBUTION OF COMMERCIAL PRODUCTS OR MATERIALS, PROVIDED THAT 50 PERCENT OR MORE OF SUCH INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE OF MONTANA AND BUSINESSES THAT EARN 50 PERCENT OR MORE OF ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES"

2. Title, lines 13 through 15.

Strike: "REQUIRING THAT A QUALIFYING INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE THE JURISDICTION IN WHICH IT IS LOCATED"

Insert: "TO INCLUDE FIRMS THAT ENGAGE IN THE TRANSPORTATION, WAREHOUSING OR DISTRIBUTION OF COMMERCIAL PROJECTS OR MATERIALS, PROVIDED THAT 50 PERCENT OR MORE OF SUCH INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE OF MONTANA AND FIRMS THAT EARN 50 PERCENT OR MORE OF ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES"

3. Page 3, lines 14 and 15.

Following: "endeavor"

Strike: "and that earns 50 percent or more of its gross operating income from out-of-state sales."

Insert: "as"

4. Page 3, lines 15 and 16.

Following: "is"

Strike: "New industry is"

5. Page 4, line 5.

Strike: "or"

6. Page 4, lines 6 and 7.

Following: "(iv)"

Strike: "provide transportation, warehousing, distribution, or communication services."

Insert: "engage in the transportation, warehousing or distribution of commercial products or materials, provided that 50 percent or more of such industry's gross operating sales or receipts are earned from outside the State of Montana; or"

7. Page 4, line 8.

Insert: "(v) earn 50 percent or more of annual gross operating income from out-of-state sales."

8. Page 4, line 11.

Following: "professions"

Insert: ", unless meeting the requirements of subparagraph (v)"

9. Page 5, lines 3 through 6.

Following: "Industry"

Strike: "means a firm that receives 50 percent or more of its gross operating income from sales outside the jurisdiction approving the tax benefits described in 15-24-1402. Industry"

10. Page 5, line 17.

Strike: or

11. Page 5, lines 18 and 19.

Following: "(d)"

Strike: "provision of transportation, warehousing, distribution, or communications services."

Insert: "the transportation, warehousing or distribution of commercial products or materials, provided that 50 percent or more of such industry's gross operating sales or receipts are earned from outside the State of Montana; or"

12. Page 5, line 20.

Insert: "(e) earn 50 percent or more of annual gross operating income from out-of-state sales."

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 970
DATE 3/20 SPONSOR(S) Rep. Cocchiarella

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ron Klapheke	Msle Econ Dev			✓
By Vervoff	City of Helena	970	✓	
Wm Barnett	Public Local Dev	970		✓
Kay Foster	Billings Chamber	970		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 22, 1991, at
9:00 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON SJR 15

Presentation and Opening Statement by Sponsor:

SEN. VAUGHN, Senate District 1, Libby, stated the federal government takes the social security funds and transfers the amount from where they are now and puts them into a fund to be reserved for what the purpose was set up for. It is not only important for the people who are drawing social security now, but it is very important for those who are looking at social security in the future as to whether there will money in the fund for them to use.

agency services". On Page 2, Lines 11 and 12 strike "adjusted" and following "income" insert: "including all nontaxable income". He stated that they were trying to include all revenue income including social security.

Vote: Motion to amend HB 790 carried unanimously.

Motion/Vote: REP. ELLIOTT MADE A SUBSTITUTE MOTION THAT HB 790 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 796

Motion/Vote: REP. ELLIOTT MOVED HB 796 BE TABLED. Motion carried 15 to 6 with REPS. O'KEEFE, SCHYE, MADISON, COHEN, FAGG, and RANEY voting no.

EXECUTIVE ACTION ON HB 614

Motion: REP. THOMAS MOVED HB 614 DO PASS.

Discussion:

REP. THOMAS said this is a cigarette tax that would help purchase insurance for uninsured children.

Motion/Vote: REP. ELLISON MADE A SUBSTITUTE MOTION THAT HB 614 BE TABLED. Motion carried 15 to 4 on a roll call vote. EXHIBIT 14

EXECUTIVE ACTION ON SB 280

Motion: REP. FAGG MOVED SB 280 BE CONCURRED IN.

Motion: REP. ELLISON moved to amend SB 280. EXHIBIT 15

Discussion:

Lee Heiman, Legislative Council, explained that SB 41 changed the collection of passenger tramway collection to the DOC. The Governor signed that as Chapter 34, so that tramway passenger assessments have to be removed for the bill.

Vote: Motion to amend SB 280 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION SB 280 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 970

Motion: REP. COHEN MOVED HB 970 MOVED HB 970 DO PASS.

Motion: REP. COHEN moved to amend HB 970. EXHIBIT 16

Discussion:

Lee Heiman, Legislative Council, said that the bill as introduced took certain service industries and put them into the current tax exemption. At the same time, they made a requirement that 50% of all of their revenues had to come from out-of-state. It basically messed up the existing program and added a service program into it. The amendment put the existing programs back exactly the way they are and add the service type of industry into it. It would allow service industries to participate in the program if more that 50% of the revenue for sales come from out-of- state sales.

The original bill talked about transportation, warehousing, distribution, and communication services. The amendments take the communication services out of the bill. They add an affective date and a retroactive applicability date. We also adopted an amendment based upon the DOR's concerns on the use of the word "industry". We replaced "industry" with the word "firm".

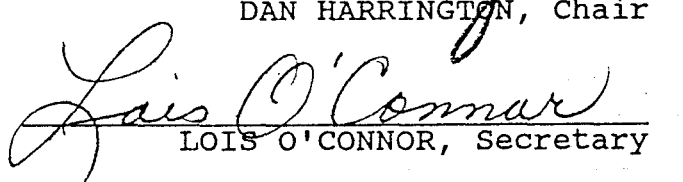
Vote: Motion to amend HB 970 carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 970 DO PASS AS AMENDED. Motion carried 19 to 2 with REPS. RANEY and ELLIOTT voting no.

ADJOURNMENT

Adjournment: 11:56 a.m.


DAN HARRINGTON, Chair


LOIS O'CONNOR, Secretary

DH/lo

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/22/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

all here

HOUSE STANDING COMMITTEE REPORT

March 22, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that House Bill 970 (first reading copy -- white) do pass as amended .

Signed: _____
Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 7.

Following: "INCLUDE"

Insert: "COMPANIES THAT ENGAGE IN"

Following: "WAREHOUSING"

Insert: "OR"

2. Title, lines 8 through 11.

Strike: ", AND COMMUNICATION" on line 8 through "PROPERTY" on line 11

Insert: "OF COMMERCIAL PRODUCTS OR MATERIALS IF 50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES"

3. Title, lines 13 through 15.

Strike: "REQUIRING" on line 13 through "LOCATED;" on line 15

4. Title, line 18.

Strike: "AND"

5. Title, line 19.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"

6. Page 3, lines 14 through 16.

Strike: "and" on line 14 through "is" on line 16

Insert: ", as"

7. Page 3, line 18.

Following: "those"

Insert: "only those"

8. Page 4, line 5.

Strike: "or"

9. Page 4, line 6.

Strike: "provide"

Insert: "engage in the"

Following: "warehousing"

Insert: "or"

10. Page 4, line 7.

Strike: "or communications services"

Insert: "of commercial products or materials if 50% or more of the industry's gross operating sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross operating income from out-of-state sales"

11. Page 4, line 11.

Following: "professions"

Insert: "unless the business or profession meets the requirements of subsection (4) (b) (v) "

12. Page 5, lines 3 through 6.

Strike: "means" on line 3 through "Industry" on line 6

13. Page 5, line 17.

Strike: "or"

14. Page 5, line 18.

Strike: "provision of"

Following: "warehousing,"

Insert: "or"

15. Page 5, line 19.

Strike: ", or communications services"

Insert: "of commercial products or materials if 50% or more of the industry's gross operating sales or receipts are earned from outside the state; or

(e) earn 50% or more of their annual gross operating income from out-of-state sales"

16. Page 5, line 20.

Strike: "industry"

Insert: "firm"

17. Page 9.

Following: line 19

Insert: "NEW SECTION. Section 5. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990."

Amendments to House Bill No. 970
First Reading Copy

Requested by Rep. Cocchiarella
For the Committee on Taxation

Prepared by Lee Heiman
March 20, 1991

1. Title, line 7.
Following: "INCLUDE"
Insert: "COMPANIES THAT ENGAGE IN"
Following: "WAREHOUSING"
Insert: "OR"
2. Title, lines 8 through 11.
Strike: ", AND COMMUNICATION" on line 8 through "PROPERTY" on line 11
Insert: "OF COMMERCIAL PRODUCTS OR MATERIALS IF 50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES"
3. Title, lines 13 through 15.
Strike: "REQUIRING" on line 13 through "LOCATED;" on line 15
4. Title, line 18.
Strike: "AND"
5. Title, line 19.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"
6. Page 3, lines 14 through 16.
Strike: "and" on line 14 through "is" on line 16
Insert: ", as"
7. Page 3, line 18.
Following: "~~these~~"
Insert: "only those"
8. Page 4, line 5.
Strike: "or"
9. Page 4, line 6.
Strike: "provide"
Insert: "engage in the"
Following: "warehousing"
Insert: "or"
10. Page 4, line 7.
Strike: "or communications services"
Insert: "of commercial products or materials if 50% or more of"

Ex. 16

3-22-91

HB 970

the industry's gross operating sales or receipts are earned
• from outside the state; or
 (v) earn 50% or more of their annual gross operating
income from out-of-state sales"

11. Page 4, line 11.

Following: "professions"

Insert: "unless the business or profession meets the requirements
of subsection (4)(b)(v)"

12. Page 5, lines 3 through 6.

Strike: "means" on line 3 through "Industry" on line 6

13. Page 5, line 17.

Strike: "or"

14. Page 5, line 18.

Strike: "provision of"

Following: "warehousing,"

Insert: "or"

15. Page 5, line 19.

Strike: ", or communications services"

Insert: "of commercial products or materials if 50% or more of
the industry's gross operating sales or receipts are earned
from outside the state; or

 (e) earn 50% or more of their annual gross operating
income from out-of-state sales"

16. Page 5, line 20.

Strike: "industry"

Insert: "firm"

17. Page 9.

Following: line 19

Insert: "NEW SECTION. Section 5. Effective date -- retroactive
applicability. [This act] is effective on passage and
approval and applies retroactively, within the meaning of 1-
2-109, to taxable years beginning after December 31, 1990."

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 8, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

Robert Brown (R)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 54

Presentation and Opening Statement by Sponsor:

Representative Ream, District 54, presented HB 54, which is a comprehensive income tax reform bill. It ties the state income tax to a percentage of the federal income tax liability. Simplicity and fairness are the main reasons the bill was introduced. Rep. Ream reviewed the attached materials (Exhibit #1) which give an overall review of the bill.

HEARING ON HOUSE BILL 970Presentation and Opening Statement by Sponsor:

Rep. Cocchiarella, District 59, said the bill is sponsored by the economic development community of Montana. The bill seeks to allow other basic industries which are not necessarily manufacturers to qualify for property tax reductions which are already provided to new manufacturing industries. The bill also lowers the new and expanding industry incentive minimums so that smaller businesses can qualify.

Proponents' Testimony:

Ron Klophoke, President and CEO of the Missoula Economic Development Corporation expressed support for the bill. It cleans up the definitions in the law very well and he urged the committee to pass the bill in its current form.

Opponents' Testimony:

Shelly Ann Laine, Director of Administrative Services, City of Helena, presented her testimony in opposition to the bill (Exhibit #9).

Questions From Committee Members:

Senator Halligan asked Rep. Cocchiarella if she had any objection to clarifying amendments from the Department of Revenue.

Rep. Cocchiarella said they would be fine with her.

Closing by Sponsor:

Rep. Cocchiarella said this is a national trend and she urged the committee to support the bill.

EXECUTIVE ACTION ON HOUSE BILL 982Amendments, Discussion, and Votes:

Jeff Martin presented the amendments as requested by Rep. O'Keefe (Exhibit #10).

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 4/5/11

REGULAR LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN			X
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 11, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

EXECUTIVE ACTION ON HOUSE BILL 970

Amendments, Discussion, and Votes:

Jeff Martin presented proposed amendments from the Department of Revenue (Exhibit #1). The amendments change gross operating sales to gross operating income and establish an applicability date of 1991 rather than 1990.

Senator Harp presented proposed amendments (Exhibit #2) which would require the governing body to notify all taxing jurisdictions by certified mail when a 50% tax exemption is approved.

Senator Harp moved the adoption of the Exhibit #2 amendments.

The motion CARRIED unanimously.

Senator Doherty moved the adoption of the Exhibit #1 amendments.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved HB 970 Be Concurred In As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 452

Amendments, Discussion, and Votes:

Senator Harp moved to amend the bill as per the attached Exhibit #3.

The motion CARRIED unanimously.

Jeff Martin presented the committee with proposed amendments from the Department of Revenue (Exhibit #4).

Denis Adams, Director, Department of Revenue, said the amendments would affect tax year 1992 as it is already past this year's deadline for 1991. The amendments clarify if an industry is located within a city both the city and county are notified so that the county is not waiving city mills.

Senator Eck asked why schools are not included in the bill.

The committee members agreed schools should be included.

Senator Harp moved to reconsider action already taken in order to withdraw the Exhibit #3 amendments.

The motion CARRIED.

Senator Eck moved to amend the bill to include schools and to removed the Exhibit #3 amendments.

The motion CARRIED unanimously.

Amendments to House Bill No. 970
Third Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Jeff Martin
April 8, 1991

1. Title, lines 15 and 17.
Strike: "OPERATING"

2. Title, page 2, line 3.
Strike: "A RETROACTIVE"
Insert: "AN"

3. Page 4, lines 19 and 21.
Page 6, lines 12 and 14.
Strike: "OPERATING"

4. Page 10, line 16.
Strike: "RETROACTIVE"

5. Page 10, lines 18 and 19.
Strike: "RETROACTIVELY" on line 18 through "1-2-109." on line 19

6. Page 10, line 19.
Strike: "1990"
Insert: "1991"

Amendments to House Bill No. 970
Third Reading Copy

Requested by Senator Harp
For the Committee on Taxation

Prepared by Jeff Martin
April 9, 1991

1. Page 9.

Following: line 6

Insert: "Section 3. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment. (1)

In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole

discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law.

(5) The governing body approving the resolution under this section shall notify by certified mail all taxing jurisdictions affected by the tax benefit."

Renumber: subsequent sections

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/11

53rd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 12, 1991

Page 2 of 2
April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 970 (third reading copy -- blue), respectfully report that House Bill No. 970 be amended and as so amended be concurred in:

1. Title, lines 15 and 17.
Strike: "OPERATING"

2. Title, page 2, line 1.
Following: "CREDIT;"

Insert: "REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF A TAX BENEFIT;"

3. Title, page 2, line 2.
Following: "~~15-24-1402,~~"
Insert: "15-24-1402,"

4. Title, page 2, line 3.
Strike: "A RETROACTIVE"
Insert: "AN"

5. Page 4, lines 19 and 21.
Page 6, lines 12 and 14.
Strike: "OPERATING"

6. Page 9.
Following: line 6
Insert: "Section 3. Section 15-24-1402, MCA, is amended to read:
"15-24-1402. New or expanding industry -- assessment --
notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority

vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

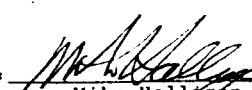
(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.
Renumber: subsequent sections

7. Page 10, line 16.
Strike: "RETROACTIVE"

8. Page 10, lines 18 and 19.
Strike: "RETROACTIVELY" on line 18 through "1-2-109," on line 19

9. Page 10, line 19.
Strike: "1990"
Insert: "1991"

Signed: 
Mike Halligan, Chairman

LB 4/24/91
Amd. C. Cord.
SB 4/12 3:35
Sec. of Senate

SENATE

HB 970

781333SC.SLB

781333SC.SLB

HOUSE BILL NO. 970

INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
PROPERTY TO INCLUDE COMPANIES THAT ENGAGE IN TRANSPORTATION,
WAREHOUSING, OR DISTRIBUTION; ~~AND COMMUNICATION SERVICES;~~
~~REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF~~
~~ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR~~
~~CLASS FIVE PROPERTY OF COMMERCIAL PRODUCTS OR MATERIALS IF~~
50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES
OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES
THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING
INCOME FROM OUT-OF-STATE SALES; REVISING THE DEFINITION OF A
NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN
PROPERTY TAX BENEFITS; ~~REQUIRING THAT A QUALIFYING INDUSTRY~~
~~RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE~~
~~THE JURISDICTION IN WHICH IT IS LOCATED; APPLYING THE~~
~~PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE~~
~~QUALIFYING PROPERTY~~; REVISING THE DEFINITION OF A NEW
CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY

CREDIT; REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED
TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF
A TAX BENEFIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401,
~~15-24-1402~~, 15-24-1402, AND 15-31-124, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE AN APPLICABILITY
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description --
taxable percentage. (1) Class five property includes:
(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations
organized under the laws of Montana, except property owned
by cooperative organizations described in subsection (1)(b)
of 15-6-137;
(b) air and water pollution control equipment as
defined in this section;
(c) new industrial property as defined in this section;
(d) any personal or real property used primarily in the
production of gasohol during construction and for the first
3 years of its operation;
(e) all land and improvements and all personal property
owned by a research and development firm, provided that the
property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a

~~new industrial endeavor, and that earns 50% or more of its gross operating income from out-of-state sales, as New industry--is, AS~~ distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes ~~only--these~~ ONLY THOSE industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 1987 Standard Industrial Classification Manual prepared by the United States office of management and budget; or

(iv) provide ENGAGE IN THE transportation, warehousing, OR distribution--or--communications-services OF COMMERCIAL PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE; OR

(V) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions UNLESS THE BUSINESS OR PROFESSION MEETS THE REQUIREMENTS OF SUBSECTION (4)(B)(V);

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(6) Class five property is taxed at 3% of its market value."

Section 2. Section 15-24-1401, MCA, is amended to read:

"15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, at least \$250,000 \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" ~~means--a-firm-that-receives-50%-or-more of--its--gross--operating--income--from--sales--outside--the jurisdiction--approving--the--tax--benefits---described---in 15-24-1402;---~~ industry includes but is not limited to a firm

that engages in the:

(a) mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget;

(b) extraction or harvesting of minerals, ore, or forestry products; ~~or~~

(c) processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products; ~~or~~

~~(d) provision---of transportation, warehousing, OR distribution---or---communications---services OF COMMERCIAL PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE; OR~~

~~(E) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES.~~

(3) "New" means that the industry FIRM is new to the jurisdiction approving the resolution provided for in 15-24-1402~~(3)~~(2) and has invested after July 1, 1987, at least \$500,000 \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New

1 industry does not include property treated as new industrial
2 property under 15-6-135.

3 (4) "Qualifying" means meeting all the terms,
4 conditions, and requirements for a reduction in taxable
5 value under 15-24-1401 and 15-24-1402."

6 Section 3,--Section 15-24-1402, MCA, is amended to read:
7 "15-24-1402.---New-or-expanding-industry-----assessment.
8 {1}--In--the--first--5--years--after--a--construction--permit--is
9 issued, qualifying improvements or modernized processes that
10 represent new industry or expansion of an existing industry,
11 as designated in the approving resolution, shall be taxed at
12 50% of--their--taxable--value.---Each--year--thereafter,--the
13 percentage shall be increased by equal percentages until the
14 full--taxable--value--is--attained--in--the--10th--year.---In
15 subsequent years, the property shall be taxed at 100% of its
16 taxable value.

17 {2}--{a}--In--order--for--a--taxpayer--to--receive--the--tax
18 benefits described in subsection {1}, the governing body--of
19 the--affected--county--or--the--incorporated--city--or--town--must
20 have approved--by--separate--resolution--for--each--project,
21 following--due--notice--as--defined--in--76-15-103--and--a--public
22 hearing, the use of the schedule provided for in subsection
23 {1}--for--its--respective--jurisdiction.---The--governing--body--may
24 not--grant--approval--for--the--project--until--all--of--the
25 applicant's taxes have been paid in full.---Taxes--paid--under

1 protest do not preclude approval.

2 {b}--The--governing--body--may--end--the--tax--benefits--by
3 majority vote at any time, but the tax benefits may--not--be
4 denied--an--industrial--facility--that--previously--qualified--for
5 the benefits.

6 {c}--The--resolution--provided--for--in--subsection--{2}{a}
7 shall include a definition of the improvements or modernized
8 processes--that--qualify--for--the--tax--treatment--that--is--to--be
9 allowed in the taxing jurisdiction.---The--resolution--may
10 provide---that--real--property--other--than--land,--personal
11 property,--improvements,--or--any--combination--thereof---is
12 eligible for the tax benefits described in subsection {1}.

13 {3}--The--taxpayer--must--apply--to--the--county--assessor--on--a
14 form--provided--by--the--department--of--revenue--for--the--tax
15 treatment allowed under subsection {1}.---The--application--by
16 the taxpayer must first be approved by the governing body of
17 the appropriate local taxing jurisdiction, and the governing
18 body--must--indicate--in--its--approval--that--the--property--of--the
19 applicant qualifies for the tax treatment--provided--for--in
20 this--section.---Upon--receipt--of--the--form--with--the--approval--of
21 the governing body of the affected taxing jurisdiction,--the
22 assessor--shall--make--the--assessment--change--pursuant--to--this
23 section.

24 {4}--The--tax--benefit--described--in--subsection--{1}--applies
25 only to--the--number--of all mills--levied--and--assessed,

~~including for--local--high--school--district--and--elementary school--district--purposes--and--to--the--number--of--mills--levied and--assessed--by--the--governing--body--approving--the--benefit over--which--the--governing--body--has--sole--discretion--in--no case--may--the--benefit--described--in--subsection--(1)--apply--to levies--or--assessments--required--under--Title--15--chapter--10, 20-9-331, 20-9-333, or otherwise required under state law in the--taxing--units--in--which--the--qualifying--property--is located."~~

SECTION 3. SECTION 15-24-1402, MCA, IS AMENDED TO READ:

"15-24-1402. New or expanding industry -- assessment -- notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public

hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the

1 assessor shall make the assessment change pursuant to this
2 section.

3 (4) The tax benefit described in subsection (1) applies
4 only to the number of mills levied and assessed for local
5 high school district and elementary school district purposes
6 and to the number of mills levied and assessed by the
7 governing body approving the benefit over which the
8 governing body has sole discretion. In no case may the
9 benefit described in subsection (1) apply to levies or
10 assessments required under Title 15, chapter 10, 20-9-331,
11 20-9-333, or otherwise required under state law.

12 (5) Prior to approving the resolution under this
13 section, the governing body shall notify by certified mail
14 all taxing jurisdictions affected by the tax benefit."

15 **Section 4.** Section 15-31-124, MCA, is amended to read:

16 "15-31-124. New or expanded industry credit --
17 definitions. As used in 15-31-124 through 15-31-127, the
18 following definitions apply:

19 (1) "Department" means the department of revenue.

20 (2) "Expanding" means to expand or diversify a present
21 operation to increase total full-time jobs by 30% or more.

22 (3) "Manufacturing" means the process of mechanical or
23 chemical transformation of materials or substances into new
24 products, as described in the standard industrial
25 classification manual of 1972 by the office of management

1 and budget of the United States.

2 (4) (a) "New corporation" means a corporation engaging
3 in manufacturing for the first time in this state, and
4 manufacturing---a--product--not--currently--manufactured--or
5 substantially-similar-to-a-product-currently-manufactured-by
6 that-corporation-or-any-affiliate-corporation-in-this-state;
7 A new corporation includes:

8 (i) a manufacturing corporation existing outside of
9 Montana that enters into manufacturing in the state;

10 (ii) a nonmanufacturing corporation within the state
11 that enters into manufacturing in the state; or

12 (iii) a corporation newly formed in Montana and entering
13 into manufacturing operations in the state.

14 (b) ~~It~~ A new corporation does not include:

15 (i) reorganizing-an a corporation reorganized from a
16 previously existing corporation that has been engaged in
17 manufacturing in this state; or

18 (ii) the-creation-of a corporation created as a parent,
19 subsidiary, or affiliate of an existing corporation that has
20 been engaged in manufacturing in this state of which 50% 20%
21 or more of the ownership is owned-or-controlled held by the
22 same-person,-corporation,-or-association corporation or by
23 the stockholders of the corporation."

24 **NEW SECTION. SECTION 5. EFFECTIVE DATE --RETROACTIVE**
25 **APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND**

1 APPROVAL AND APPLIES RETROACTIVELY, WITHIN--THE--MEANING--OF
2 ~~1-2-1997~~ TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990
3 1991.

-End-

1 HOUSE BILL NO. 970

2 INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
3 STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
4 DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
5 PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
8 TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
9 DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
10 PROPERTY TO INCLUDE COMPANIES THAT ENGAGE IN TRANSPORTATION,
11 WAREHOUSING, OR DISTRIBUTION, AND COMMUNICATION SERVICES,
12 REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF
13 ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR
14 CLASS FIVE PROPERTY OF COMMERCIAL PRODUCTS OR MATERIALS IF
15 50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES
16 OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES
17 THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING
18 INCOME FROM OUT-OF-STATE SALES; REVISING THE DEFINITION OF A
19 NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN
20 PROPERTY TAX BENEFITS; REQUIRING THAT A QUALIFYING INDUSTRY
21 RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE
22 THE JURISDICTION IN WHICH IT IS LOCATED, APPLYING THE
23 PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE
24 QUALIFYING PROPERTY; REVISING THE DEFINITION OF A NEW
25 CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY

1 CREDIT; REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED
2 TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF
3 A TAX BENEFIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401,
4 15-24-1402, 15-24-1402, AND 15-31-124, MCA; AND PROVIDING AN
5 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE AN APPLICABILITY
6 DATE."
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 15-6-135, MCA, is amended to read:

10 "15-6-135. Class five property -- description --
11 taxable percentage. (1) Class five property includes:

12 (a) all property used and owned by cooperative rural
13 electrical and cooperative rural telephone associations
14 organized under the laws of Montana, except property owned
15 by cooperative organizations described in subsection (1)(b)
16 of 15-6-137;

17 (b) air and water pollution control equipment as
18 defined in this section;

19 (c) new industrial property as defined in this section;

20 (d) any personal or real property used primarily in the
21 production of gasohol during construction and for the first
22 3 years of its operation;

23 (e) all land and improvements and all personal property
24 owned by a research and development firm, provided that the
25 property is actively devoted to research and development;



1 (f) machinery and equipment used in electrolytic
2 reduction facilities.

3 (2) (a) "Air and water pollution equipment" means
4 facilities, machinery, or equipment used to reduce or
5 control water or atmospheric pollution or contamination by
6 removing, reducing, altering, disposing, or storing
7 pollutants, contaminants, wastes, or heat. The department of
8 health and environmental sciences shall determine if such
9 utilization is being made.

10 (b) The department of health and environmental
11 sciences' determination as to air and water pollution
12 equipment may be appealed to the board of health and
13 environmental sciences and may not be appealed to either a
14 county tax appeal board or the state tax appeal board.
15 However, the appraised value of the equipment as determined
16 by the department of revenue may be appealed to the county
17 tax appeal board and the state tax appeal board.

18 (3) "New industrial property" means any new industrial
19 plant, including land, buildings, machinery, and fixtures,
20 used by new industries during the first 3 years of their
21 operation. The property may not have been assessed within
22 the state of Montana prior to July 1, 1961.

23 (4) (a) "New industry" means any person, corporation,
24 firm, partnership, association, or other group that
25 establishes a new plant in Montana for the operation of a

1 ~~new industrial endeavor, and that earns 50% or more of its~~
2 ~~gross operating income from out-of-state sales, as New~~
3 ~~industry---is, AS~~ distinguished from a mere expansion,
4 reorganization, or merger of an existing industry.

5 (b) New industry includes ~~only--these~~ ONLY THOSE
6 industries that:

7 (i) manufacture, mill, mine, produce, process, or
8 fabricate materials;

9 (ii) do similar work, employing capital and labor, in
10 which materials unserviceable in their natural state are
11 extracted, processed, or made fit for use or are
12 substantially altered or treated so as to create commercial
13 products or materials; or

14 (iii) engage in the mechanical or chemical
15 transformation of materials or substances into new products
16 in the manner defined as manufacturing in the 1972 1987
17 Standard Industrial Classification Manual prepared by the
18 United States office of management and budget; or

19 (iv) provide ENGAGE IN THE transportation, warehousing,
20 OR distribution--or--communications-services OF COMMERCIAL
21 PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS
22 OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE
23 STATE; OR

24 (V) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING
25 INCOME FROM OUT-OF-STATE SALES.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions UNLESS THE BUSINESS OR PROFESSION MEETS THE REQUIREMENTS OF SUBSECTION (4)(B)(V);

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(6) Class five property is taxed at 3% of its market value."

Section 2. Section 15-24-1401, MCA, is amended to read:

"15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, at least ~~\$250,000~~ \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" means--a-firm-that-receives-50%-or-more of--its--gross--operating--income--from--sales--outside--the jurisdiction--approving--the--tax--benefits---described---in 15-24-1402;--Industry includes but is not limited to a firm

that engages in the:

(a) mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget;

(b) extraction or harvesting of minerals, ore, or forestry products; or

(c) processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products; or

(d) provision---of transportation, warehousing, OR distribution---or---communications---services OF COMMERCIAL PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE; OR

(E) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING INCOME FROM OUT-OF-STATE SALES.

(3) "New" means that the industry FIRM is new to the jurisdiction approving the resolution provided for in 15-24-1402~~(3)~~(2) and has invested after July 1, 1987, at least ~~\$500,000~~ \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New

1 industry does not include property treated as new industrial
2 property under 15-6-135.

3 (4) "Qualifying" means meeting all the terms,
4 conditions, and requirements for a reduction in taxable
5 value under 15-24-1401 and 15-24-1402."

6 Section 3--Section 15-24-1402, MCA, is amended to read:

7 "15-24-1402.---New-or-expanding-industry-----assessment:
8 {1}--In--the--first--5--years--after--a--construction--permit--is
9 issued,--qualifying--improvements--or--modernized--processes--that
10 represent--new--industry--or--expansion--of--an--existing--industry,
11 as--designated--in--the--approving--resolution,--shall--be--taxed--at
12 50%--of--their--taxable--value.---Each--year--thereafter,--the
13 percentage--shall--be--increased--by--equal--percentages--until--the
14 full--taxable--value--is--attained--in--the--10th--year.---In
15 subsequent--years,--the--property--shall--be--taxed--at--100%--of--its
16 taxable--value.

17 {2}--{a}--In--order--for--a--taxpayer--to--receive--the--tax
18 benefits--described--in--subsection--{1},--the--governing--body--of
19 the--affected--county--or--the--incorporated--city--or--town--must
20 have--approved--by--separate--resolution--for--each--project,
21 following--due--notice--as--defined--in--76-15-103--and--a--public
22 hearing,--the--use--of--the--schedule--provided--for--in--subsection
23 {1}--for--its--respective--jurisdiction.---The--governing--body--may
24 not--grant--approval--for--the--project--until--all--of--the
25 applicant's--taxes--have--been--paid--in--full.---Taxes--paid--under

1 protest--do--not--preclude--approval.

2 {b}--The--governing--body--may--end--the--tax--benefits--by
3 majority--vote--at--any--time,--but--the--tax--benefits--may--not--be
4 denied--an--industrial--facility--that--previously--qualified--for
5 the--benefits.

6 {c}--The--resolution--provided--for--in--subsection--{2}{a}
7 shall--include--a--definition--of--the--improvements--or--modernized
8 processes--that--qualify--for--the--tax--treatment--that--is--to--be
9 allowed--in--the--taxing--jurisdiction.---The--resolution--may
10 provide--that--real--property--other--than--land,--personal
11 property,--improvements,--or--any--combination--thereof--is
12 eligible--for--the--tax--benefits--described--in--subsection--{1}.

13 {3}--The--taxpayer--must--apply--to--the--county--assessor--on--a
14 form--provided--by--the--department--of--revenue--for--the--tax
15 treatment--allowed--under--subsection--{1}.---The--application--by
16 the--taxpayer--must--first--be--approved--by--the--governing--body--of
17 the--appropriate--local--taxing--jurisdiction,--and--the--governing
18 body--must--indicate--in--its--approval--that--the--property--of--the
19 applicant--qualifies--for--the--tax--treatment--provided--for--in
20 this--section.---Upon--receipt--of--the--form--with--the--approval--of
21 the--governing--body--of--the--affected--taxing--jurisdiction,--the
22 assessor--shall--make--the--assessment--change--pursuant--to--this
23 section.

24 {4}--The--tax--benefit--described--in--subsection--{1}--applies
25 only--to--the--number--of--all mills--levied--and--assessed,

including for--local--high--school--district-and-elementary school-district-purposes-and-to-the-number-of--mills--levied and--assessed--by--the--governing-body-approving-the-benefit over-which-the-governing-body-has--sole--discretion--In--no case--may--the--benefit-described-in-subsection-(1)--apply-to levies-or-assessments-required-under-Title-15--chapter--10, 20-9-331, 20-9-333, or otherwise required under state law in the--taxing-units--in--which--the--qualifying-property--is located."

SECTION 3. SECTION 15-24-1402, MCA, IS AMENDED TO READ:

"15-24-1402. New or expanding industry -- assessment -- notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public

hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the

1 assessor shall make the assessment change pursuant to this
2 section.

3 (4) The tax benefit described in subsection (1) applies
4 only to the number of mills levied and assessed for local
5 high school district and elementary school district purposes
6 and to the number of mills levied and assessed by the
7 governing body approving the benefit over which the
8 governing body has sole discretion. In no case may the
9 benefit described in subsection (1) apply to levies or
10 assessments required under Title 15, chapter 10, 20-9-331,
11 20-9-333, or otherwise required under state law.

12 (5) Prior to approving the resolution under this
13 section, the governing body shall notify by certified mail
14 all taxing jurisdictions affected by the tax benefit."

15 **Section 4.** Section 15-31-124, MCA, is amended to read:

16 "15-31-124. New or expanded industry credit --
17 definitions. As used in 15-31-124 through 15-31-127, the
18 following definitions apply:

19 (1) "Department" means the department of revenue.

20 (2) "Expanding" means to expand or diversify a present
21 operation to increase total full-time jobs by 30% or more.

22 (3) "Manufacturing" means the process of mechanical or
23 chemical transformation of materials or substances into new
24 products, as described in the standard industrial
25 classification manual of 1972 by the office of management

1 and budget of the United States.

2 (4) (a) "New corporation" means a corporation engaging
3 in manufacturing for the first time in this state, and
4 ~~manufacturing---a---product---not---currently---manufactured---or~~
5 ~~substantially-similar-to-a-product-currently-manufactured-by~~
6 ~~that-corporation-or-any-affiliate-corporation-in-this-state;~~
7 A new corporation includes:

8 (i) a manufacturing corporation existing outside of
9 Montana that enters into manufacturing in the state;

10 (ii) a nonmanufacturing corporation within the state
11 that enters into manufacturing in the state; or

12 (iii) a corporation newly formed in Montana and entering
13 into manufacturing operations in the state.

14 (b) it A new corporation does not include:

15 (i) reorganizing-an a corporation reorganized from a
16 previously existing corporation that has been engaged in
17 manufacturing in this state; or

18 (ii) the-creation-of a corporation created as a parent,
19 subsidiary, or affiliate of an existing corporation that has
20 been engaged in manufacturing in this state of which 50% 20%
21 or more of the ownership is owned-or-controlled held by the
22 same-person,-corporation,-or-association corporation or by
23 the stockholders of the corporation."

24 NEW SECTION. SECTION 5. EFFECTIVE DATE ---RETROACTIVE
25 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

1 APPROVAL AND APPLIES RETROACTIVELY, WITHIN--THE--MEANING--OF
2 ~~1-2-1997~~ TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990
3 1991.

-End-